

CLAIMS COMMISSION

*Protocol signed at Port-au-Prince October 3, 1919, pursuant to article
XII of treaty of September 16, 1915
Entered into force October 3, 1919
Supplemented by agreement of June 1 and 3, 1922 ¹
Treaty expired May 3, 1936*

Treaty Series 643

PROTOCOL BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HAITI

ARTICLE I

In pursuance of the objects of the Treaty concluded September 16, 1915,² between the United States of America and the Republic of Haiti to establish the finances of Haiti on a firm and solid basis, the Government of the United States and the Government of Haiti through duly authorized representatives agree upon this Protocol for the purpose of carrying out the objects of the aforesaid Treaty and of giving effect to Article 12 thereof. It is clearly understood that this Protocol does not in fact or by implication extend the provisions of the Treaty of September 16, 1915, hereinbefore mentioned.

ARTICLE II

Since the settlement by arbitration or otherwise of all pending pecuniary claims of foreign corporations, companies, citizens or subjects against Haiti, makes it necessary to assemble, analyze and adjust such claims, the Government of Haiti agrees to constitute forthwith a Claims Commission of three members, one member, to be nominated by the Secretary of State for Finance of Haiti; one member to be nominated by the Secretary of State of the United States, and the third member who shall not be a citizen either of Haiti or of

¹ *Post*, p. 686.

² TS 623, *ante*, p. 660.

the United States to be nominated by the Financial Adviser, the three members so nominated to be appointed by the Government of Haiti.

In case a vacancy occurs in the office of any member by reason of his disability or for any other cause, a new member shall be nominated and appointed in the same manner as was the former incumbent.

ARTICLE III

The Claims Commission shall have jurisdiction to examine and pass upon all pecuniary claims against Haiti. It is understood, however, that the Commission shall not have jurisdiction to consider or pass upon:

(1) The indebtedness represented by the three bond issues of 1875, 1896 and 1910, now outstanding;

(2) That to the Banque Nationale de la République d'Haïti, as of December 31, 1916, as acknowledged by the Haytian Government on the 12th of April, 1919;

(3) The sum due as interest as this sum will have been verified and admitted by the Financial Adviser, upon the bonds of the Compagnie Nationale des Chemins de Fer d'Haïti, duly authorized and bearing the guarantee of the Haytian Government, to the amount of \$3,544,548.74; and

(4) So much of the sum due to the Compagnie des Chemins de Fer de la Plaine du Cul-de-Sac on account of the interest guarantee upon its bonds as has as not hitherto been in dispute between the railroad and the Haytian Government, the Government having recognized its obligation to pay to the Compagnie des Chemins de Fer de la Plaine du Cul-de-Sac a sum equal to \$41,280 per annum, less the net profits of the railroad.

It is further understood that the claims heretofore presented to the Claims Commission appointed by the decree of November four nineteen sixteen need not be presented de novo to the new Claims Commission who will review the findings of the Commission appointed by the decree of November four nineteen sixteen in respect of these claims, may require the production of further evidence where they deem this necessary and shall make such final awards as seem to them just and equitable.

ARTICLE IV

The Claims Commission shall proceed, as soon as constituted, to hold meetings at Port-au-Prince, or elsewhere in the Republic of Haiti, to formulate rules of procedure for the filing and adjudication of claims.

The Claims Commission may fix the date after which claims may not be filed, but such date shall not be less than six months after the date of the first public announcement by the Commission of its readiness to receive claims. The Commission shall be bound to examine and decide upon every claim

within two years from the day of its first meeting. A majority vote of the Commissioners shall constitute a binding decision upon any claim.

ARTICLE V

The Claims Commission shall determine the proportion of each award which is to be paid in cash and the proportion to be paid in bonds of Haiti; and it shall state these amounts respectively in its certificate of award which is to be issued to each creditor in whose favor an award is made, and which is to be surrendered by him to the Secretary of State for Finance upon payment of the award.

ARTICLE VI

In order to make possible the settlement of the awards rendered by the Claims Commission and the refunding of those obligations specifically mentioned in Numbers 1, 2, 3 and 4 in Article III above, and otherwise to establish the finances of Haiti on a firm and solid basis, the Republic of Haiti agrees to issue, upon the terms and at a time to be fixed in accord with the Financial Adviser, but not later than two years after the date of the signature of this Protocol a national loan of 40,000,000 dollars gold (\$40,000,000), payable in thirty years by annual drawings at par, or by purchase below par in the open market. It is agreed that the Government of Haiti shall have the right to pay off the entire loan at any time upon reasonable previous notice after fifteen years from the date of issue.

ARTICLE VII

It is further agreed that this loan, to the issuance of which the President of the United States consents, will be used to pay or otherwise provide for the obligations specifically mentioned and numbered 1, 2, 3 and 4 in Article III hereof, and also the awards rendered by the Claims Commission provided for herein. Provision shall be made for the exchange of the bonds of this loan for the bonds of the issues of 1875, 1896 and 1910, such exchange to take place with due regard for the interest rates of the respective bonds and to be carried on between the Secretary of State for Finance of the Republic of Haiti, in accord with the Financial Adviser, and such agency as may represent the holders of said bonds. After two years from the date of the official announcement of the beginning of the conversion the bonds of this loan not used for the purpose of conversion shall be returned to the Secretary of State for Finance of Haiti at Port-au-Prince for the use of the Government. The holders of any said old bonds which shall not have been presented for exchange within this period of two years shall apply for redemption of the same directly to the Secretary of State for Finance of Haiti. Any surplus remaining after the foreign and domestic indebtedness has been paid or otherwise provided for shall be applied by the Republic of Haiti, in accord with the Finan-

cial Adviser, to the construction of necessary public works or to the service of the loan hereinabove authorized.

ARTICLE VIII

It is agreed that the payment of interest and the amortization of this loan will constitute a first charge upon all the internal revenues of Haiti, and a second charge upon the customs revenues of Haiti next in order, until the expiration of the Treaty of September 16, 1915, after payment of salaries, allowances and expenses of the General Receiver and the Financial Adviser and their assistants; and it is further agreed that the control by an officer or officers duly appointed by the President of Haiti, upon nomination by the President of the United States, of the collection and allocation of the hypothe-cated revenues, will be provided for during the life of the loan after the expiration of the aforesaid Treaty so as to make certain that adequate provision be made for the amortization and interest of the loan.

ARTICLE IX

Each member of the Claims Commission will receive \$8,000 gold per annum as salary, and \$2,000 gold per annum as expenses; and the Commission is authorized, after approval of the Secretary of State for Finance in accord with the Financial Adviser, to retain the services of such assistants and experts and otherwise to incur such actual and necessary expenses as may be required for the proper discharge of its duties; and it is agreed that upon proper certification by the Secretary of State for Finance, such salaries, allowances and expenses thus authorized will be paid from the General Treasury of the Republic.

ARTICLE X

The Government of Haiti agrees to empower the Commission by appropriate legislation or otherwise to compel the attendance at its sessions in Haiti of witnesses whose testimony is desired in connection with any claim pending before the Commission, and to require the production of papers which the Commission may deem necessary for it to consider. The Government of Haiti further agrees to enact such legislation as may be necessary to give effect to the provisions of this Protocol.

ARTICLE XI

This Protocol will take effect immediately upon signature by the Minister of the United States to Haiti representing the Government of the United States, and by the Secretary of State for Foreign Affairs of Haiti representing the Government of Haiti.

In witness whereof this agreement has been signed and sealed by Mr. Arthur Bailly-Blanchard, Envoy Extraordinary and Minister Plenipotentiary of the United States of America on behalf of the United States, and by Mr.

Constantin Benoit, Secretary of State for Foreign Affairs of Haiti on behalf of the République of Haiti.

Done in duplicate in the English and French languages at the City of Port-au-Prince on the third day of October, one thousand nine hundred and nineteen.

A. BAILLY-BLANCHARD [SEAL]

C. BENOIT [SEAL]